

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
PLAINTIFF, )  
VS. )  
RAMESH "SUNNY" BALWANI, )  
DEFENDANT. )  
) CR-18-00258-EJD  
) SAN JOSE, CALIFORNIA  
) MARCH 16, 2022  
) VOLUME 6  
) PAGES 967 - 973

TRANSCRIPT OF TRIAL PROCEEDINGS  
BEFORE THE HONORABLE EDWARD J. DAVILA  
UNITED STATES DISTRICT JUDGE

## A P P E A R A N C E S:

FOR THE PLAINTIFF: UNITED STATES ATTORNEY'S OFFICE  
BY: JOHN C. BOSTIC  
JEFFREY B. SCHENK  
150 ALMADEN BOULEVARD, SUITE 900  
SAN JOSE, CALIFORNIA 95113

BY: ROBERT S. LEACH  
KELLY VOLKAR  
1301 CLAY STREET, SUITE 340S  
OAKLAND, CALIFORNIA 94612

(APPEARANCES CONTINUED ON THE NEXT PAGE.)

OFFICIAL COURT REPORTERS:

IRENE L. RODRIGUEZ, CSR, RMR, CRR  
CERTIFICATE NUMBER 8074  
LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

## 1 A P P E A R A N C E S: (CONT'D)

2 FOR DEFENDANT BALWANI: ORRICK, HERRINGTON & SUTCLIFFE LLP  
3 BY: MOLLY MCCAFFERTY  
4 SHAWN ESTRADA  
5 THE ORRICK BUILDING  
6 405 HOWARD STREET  
7 SAN FRANCISCO, CALIFORNIA 94105

8 BY: JEFFREY COOPERSMITH  
9 AARON BRECHER  
10 AMANDA McDOWELL  
11 701 FIFTH AVENUE, SUITE 5600  
12 SEATTLE, WASHINGTON 98104

13 BY: STEPHEN CAZARES  
14 77 SOUTH FIGUEROA STREET, SUITE 3200  
15 LOS ANGELES, CALIFORNIA 90017

16 BY: AMY WALSH  
17 51 W 52ND STREET  
18 NEW YORK, NEW YORK 10019

19 ALSO PRESENT: OFFICE OF THE U.S. ATTORNEY  
20 BY: MADDI WACHS, PARALEGAL  
21 SARA SLATTERY, PARALEGAL

22 ORRICK, HERRINGTON & SUTCLIFFE  
23 JENNIFER CYGNOR, PARALEGAL

24 PROLUMINA  
25 BY: COREY ALLEN  
26 2200 SIXTH AVENUE, SUITE 425  
27 SEATTLE, WASHINGTON 98121

28 UNITED STATES POSTAL INSPECTION SERVICE  
29 BY: CHRISTOPHER MCCOLLOW

30 FEDERAL BUREAU OF INVESTIGATION  
31 BY: MARIO C. SCUSSEL

32 UNITED STATES FOOD & DRUG  
33 ADMINISTRATION  
34 BY: GEORGE SCAVDIS

35 JURY CONSULTANT  
36 BY: DAVID PERROTT

1 SAN JOSE, CALIFORNIA MARCH 16, 2022

09:16AM 2 P R O C E E D I N G S

09:16AM 3 (COURT CONVENED AT 9:16 A.M.)

09:16AM 4 (JURY IN AT 9:16 A.M.)

09:16AM 5 THE COURT: THANK YOU. PLEASE BE SEATED.

09:16AM 6 LET'S GO ON THE RECORD IN 18-258, UNITED STATES VERSUS

09:16AM 7 RAMESH "SUNNY" BALWANI.

09:16AM 8 LET ME FIRST CAPTURE THE APPEARANCES OF THE PARTIES,

09:16AM 9 PLEASE.

09:16AM 10 WHO APPEARS FOR THE GOVERNMENT?

09:16AM 11 MR. SCHENK: GOOD MORNING, YOUR HONOR.

09:16AM 12 JEFF SCHENK ON BEHALF OF THE UNITED STATES.

09:16AM 13 I'M JOINED AT COUNSEL TABLE BY JOHN BOSTIC, ROBERT LEACH,

09:16AM 14 AND POSTAL INSPECTOR CHRISTOPHER MCCOLLOW.

09:16AM 15 THE COURT: THANK YOU. GOOD MORNING.

09:16AM 16 MR. COOPERSMITH: GOOD MORNING, YOUR HONOR.

09:17AM 17 JEFF COOPERSMITH ON BEHALF OF MR. BALWANI, WHO IS PRESENT.

09:17AM 18 I'M JOINED AT COUNSEL TABLE BY MY COLLEAGUES AMY WALSH AND

09:17AM 19 STEPHEN CAZARES.

09:17AM 20 THE COURT: THANK YOU. GOOD MORNING.

09:17AM 21 THE RECORD SHOULD REFLECT THAT ALL PARTIES ARE PRESENT.

09:17AM 22 OUR JURY IS PRESENT.

09:17AM 23 JUROR NUMBER 1 IS NOT PRESENT.

09:17AM 24 LADIES AND GENTLEMEN, I WANT TO TALK TO YOU ABOUT SOME

09:17AM 25 PROCEDURAL MATTERS THIS MORNING, JUST PROCEDURAL MATTERS, NOT

09:17AM 1 ANYTHING TO DO WITH THE SUBSTANCE OF THE CASE.

09:17AM 2 BUT LET ME FIRST ASK COUNSEL, COUNSEL, DO I HAVE YOUR

09:17AM 3 STIPULATION AND AGREEMENT THAT I CAN PROCEED WITH THESE

09:17AM 4 PROCEDURAL COMMENTS WITHOUT JUROR NUMBER 1 PRESENT?

09:17AM 5 MR. SCHENK: YES, FROM THE GOVERNMENT.

09:17AM 6 MR. COOPERSMITH: YES, FROM THE DEFENSE, YOUR HONOR.

09:17AM 7 THE COURT: THANK YOU VERY MUCH.

09:17AM 8 LADIES AND GENTLEMEN, I DO WANT TO TELL YOU THAT WE'RE

09:17AM 9 DELAYED STARTING HERE THIS MORNING, AND THERE'S A REASON FOR

09:17AM 10 THAT.

09:17AM 11 IT CAME TO THE COURT'S ATTENTION THIS MORNING THAT IT MAY

09:17AM 12 BE THAT YESTERDAY YOU, AND ALL OF US HERE IN COURT, MAY HAVE

09:18AM 13 HAD EXPOSURE TO SOMEONE WHO THAT PERSON HAD CONTACT WITH

09:18AM 14 SOMEONE ELSE WHO HAS TESTED POSITIVE WITH COVID, FOR THE COVID

09:18AM 15 VIRUS.

09:18AM 16 I SHOULD TELL YOU THAT THIS INDIVIDUAL HAS TESTED

09:18AM 17 NEGATIVE, BUT OUT OF AN ABUNDANCE OF CAUTION, OUT OF AN

09:18AM 18 ABUNDANCE OF CAUTION, WHAT -- I HAVE DISCUSSED THIS WITH

09:18AM 19 COUNSEL, AND THE COURT'S DECISION IN A PROCEDURAL WAY IS THAT

09:18AM 20 WE'RE NOT GOING TO BE IN SESSION TODAY.

09:18AM 21 WE'RE GOING TO TAKE A BREAK TODAY. OUR NEXT SCHEDULED

09:18AM 22 SESSION IS FRIDAY, AS YOU KNOW.

09:18AM 23 WHAT WE'RE GOING TO DO IS TO CONTINUE TO MONITOR THE

09:18AM 24 SITUATION WITH THIS INDIVIDUAL.

09:18AM 25 I SHOULD TELL YOU, AS I SAID, THE INDIVIDUAL HAS TESTED,

09:18AM 1 TESTED NEGATIVE. SO I WANT YOU TO KNOW THAT.

09:19AM 2 BUT OUT OF AN ABUNDANCE OF CAUTION AND FOLLOWING CDC

09:19AM 3 GUIDELINES, I'M NOT GOING TO HAVE COURT TODAY. WE'RE GOING TO

09:19AM 4 WAIT AND MONITOR THE SITUATION, AND THEN WE WILL INFORM YOU

09:19AM 5 TOMORROW, TOMORROW AS TO NEXT STEPS; THAT IS, WHETHER YOU'LL

09:19AM 6 NEED TO RETURN FRIDAY FOR COURT, OR PERHAPS NEXT WEEK FOR

09:19AM 7 COURT.

09:19AM 8 AND AGAIN, THIS IS FOLLOWING THE CDC GUIDELINES.

09:19AM 9 I WANTED YOU TO KNOW I'M TAKING THESE STEPS, AS I TOLD YOU

09:19AM 10 WHEN WE FIRST MET EARLIER THIS WEEK, THE COURT AND COUNSEL,

09:19AM 11 WE'RE ALL CONCERNED ABOUT YOUR SAFETY, AND THE LENGTH OF THIS

09:19AM 12 TRIAL DICTATES THAT I'M GOING TO EXERCISE CAUTION AS WE GO

09:19AM 13 FORWARD WHEN ANY OF THESE ISSUES ARISE. I TAKE THEM VERY

09:19AM 14 SERIOUSLY. I HOPE YOU APPRECIATE THAT.

09:19AM 15 LET ME TELL YOU THIS: I ALSO WANT TO PROVIDE TO ANY ONE

09:20AM 16 OF YOU WHO WISHES THE TEST KITS THAT WE HAVE, AND IF ANY OF YOU

09:20AM 17 WOULD LIKE TO TAKE ONE OF THOSE KITS HOME --

09:20AM 18 MS. ROBINSON, HOW MANY DO THEY HAVE IN A BOX? IS IT ONE?

09:20AM 19 TWO?

09:20AM 20 IF ANYONE WOULD LIKE TO TAKE A TEST KIT HOME, WE'LL GIVE

09:20AM 21 IT TO YOU FOR YOUR COMFORT.

09:20AM 22 I'M INFORMED THAT IT HAS TWO TESTS IN THE BOX. WHEN

09:20AM 23 YOU'RE EXCUSED, IF YOU WOULD LIKE, MS. ROBINSON HAS THEM AND

09:20AM 24 SHE CAN PROVIDE THEM, AND THE COURT IS MORE THAN HAPPY TO

09:20AM 25 PROVIDE THE TESTS.

09:20AM 1 YOU CAN TEST YOURSELVES, AND YOU CAN KEEP THAT INFORMATION  
09:20AM 2 PRIVATE IF YOU WISH. IF YOU WANT TO LET MS. ROBINSON KNOW THE  
09:20AM 3 TEST RESULTS, WE'D BE HAPPY TO RECEIVE THAT IF THAT'S WHAT YOU  
09:20AM 4 WOULD LIKE TO DO. THAT WOULD GIVE US OTHER INFORMATION ALSO  
09:20AM 5 ABOUT GOING FORWARD.

09:20AM 6 SO, COUNSEL, ANYTHING ELSE YOU WOULD LIKE TO ADD?

09:20AM 7 MR. SCHENK: NO, YOUR HONOR.

09:20AM 8 THANK YOU.

09:20AM 9 MR. COOPERSMITH: NO, YOUR HONOR.

09:20AM 10 THANK YOU.

09:20AM 11 THE COURT: ALL RIGHT. I APOLOGIZE FOR THE  
09:21AM 12 INTERRUPTION OF OUR SCHEDULE, BUT I HOPE YOU APPRECIATE THAT  
09:21AM 13 I'M DOING THIS OUT OF AN ABUNDANCE OF CAUTION, AGAIN, FOLLOWING  
09:21AM 14 CDC GUIDELINES.

09:21AM 15 AND AGAIN, MY SENSE IS, JUST BASED ON THE INFORMATION THAT  
09:21AM 16 I HAVE, THAT WE WILL BE ABLE TO GET BACK INTO COURT SOONER THAN  
09:21AM 17 LATER. THAT'S THE INFORMATION THAT I HAVE ABOUT THIS LIMITED,  
09:21AM 18 LIMITED EXPOSURE.

09:21AM 19 BUT I JUST WANTED TO LET YOU KNOW THAT, AND AGAIN, I'M  
09:21AM 20 PROCEEDING WITH YOUR SAFETY AND BEST INTEREST IN MIND. I  
09:21AM 21 APOLOGIZE FOR THE INTERRUPTION. BUT WE'LL GET TOGETHER AGAIN  
09:21AM 22 AS EARLY AS FRIDAY, PERHAPS NEXT WEEK. MS. ROBINSON WILL REACH  
09:21AM 23 OUT TO YOU WITH THAT INFORMATION.

09:21AM 24 IF ANY OF YOU HAVE ANY QUESTIONS OR CONCERNS, ANYTHING YOU  
09:21AM 25 WANT TO RAISE ABOUT YOUR PERSONAL SITUATION, PLEASE CONTACT

09:21AM 1 MS. ROBINSON AND SHE CAN PASS THAT INFORMATION ON TO THE COURT,  
09:21AM 2 AND I CAN GIVE THAT TO COUNSEL AS NEEDED.

09:21AM 3 ALL RIGHT. COUNSEL, ANYTHING FURTHER BEFORE WE ADJOURN  
09:21AM 4 FOR THE DAY?

09:21AM 5 MR. SCHENK: NO. THANK YOU.

09:21AM 6 MR. COOPERSMITH: NO, YOUR HONOR. THANK YOU.

09:21AM 7 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, LADIES  
09:22AM 8 AND GENTLEMEN. AGAIN, I APOLOGIZE FOR THE INCONVENIENCE.

09:22AM 9 MS. ROBINSON WILL HAVE THE TEST KITS FOR YOU IN THE JURY  
09:22AM 10 ROOM.

09:22AM 11 THANK YOU. GOOD HEALTH. WE'LL SEE YOU SOON. THANK YOU.

09:22AM 12 WE'LL BE IN RECESS. THANK YOU.

09:22AM 13 THE CLERK: COURT IS ADJOURNED.

09:22AM 14 (COURT ADJOURNED AT 9:22 A.M.)

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2  
3 CERTIFICATE OF REPORTERS  
4  
5  
6

7 WE, THE UNDERSIGNED OFFICIAL COURT REPORTERS OF THE  
8 UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
9 CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO  
10 HEREBY CERTIFY:

11 THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS  
12 A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE  
13 ABOVE-ENTITLED MATTER.

14   
15

16 

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IRENE RODRIGUEZ, CSR, CRR  
17 CERTIFICATE NUMBER 8076  
18



19 

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LEE-ANNE SHORTRIDGE, CSR, CRR  
20 CERTIFICATE NUMBER 9595  
21

22 DATED: MARCH 16, 2022  
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